

**Board of Forestry and Fire Protection
Title 14 of the California Code of Regulations**

[Notice Published January 23, 2007]

15 - Day Notice

**MODIFICATIONS TO TEXT OF PROPOSED REGULATION AND
PUBLIC HEARING DATE**

Utility Clearing Exemption, 2006

PUBLIC HEARING DATE

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44, the State Board of Forestry and Fire Protection (Board) is providing notice of changes made to proposed regulations listed below which were the subject of a regulatory hearing on January 10, 2007. These changes are being proposed in response to comments received regarding the proposed changes to Fire Protection regulations. **The Board will hold a public hearing to adopt final rule language. The public hearing is to be held 8:00 a.m. on Thursday, February 8, 2007, at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California.**

MODIFICATIONS TO TEXT OF PROPOSED REGULATION

The Board is providing notice of changes made to the proposed regulations publicly noticed for a 45 Day review on November 17, 2006, affecting Title 14, Chapter 7. Fire Protection, Article 4. Fire Prevention Standards for Electrical Utilities, of the California Code of Regulations (14 CCR). The following section is proposed for amendment:

§ 1257. Exempt Minimum Clearance Provisions—Public Resource Code(PRC) 4293.

Modification to the Initial Statement of Reasons

Modifications to the Initial Statement of Reason are described below. The modifications include:

- Additional relevant documents relied upon;
- California Environmental Quality Act (CEQA) compliance; and
- Deletion of a specific purpose of regulation.

PUBLIC COMMENTS

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the 15-Day Notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 P.M., on Wednesday, February 7, 2007.** The Board will consider only written comments received at the Regulations Coordinator Office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments may be submitted by U.S. mail to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered or sent by courier to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board held a public hearing on January 10, 2007 to provide the public an opportunity to provide input on the adoption of this regulation. During this hearing, the Board received comments from the public both in writing and in testimony. The Board considered all written and oral comments before it. The Board discussed the comments received and determined they wished to consider adopting some of the proposed rule modification offered either in writing or orally at the hearing. The Board directed staff during the January 10, 2007 hearing to provide potential changes to final regulatory language to the public in a 15-day notice (GC § 11346.8(c)). The Board may adopt any one individual proposed change, a selected group of the proposed changes, or all of the proposed changes. The means of identifying the proposed changes are below.

MODIFICATIONS TO TEXT OF PROPOSED REGULATION

Subsections §§ 1257 (a)(1)(B) and 1257(a)(3), Exempt Minimum Clearance Provisions--PRC 4293, were modified from the originally noticed rule. The modifications were made based on public input. The changes include:

- 1) Limiting the Major Woody Stem (MWS) exemption to primary distribution lines (those generally less than 22.5 kV) and excluding the exemption for transmission lines of higher voltages. This change is necessary to ensure adequate fire safety precautions.
- 2) Selection of MWS for exemption from clearing minimums in PRC 4293 must consider weather conditions. This change is necessary to ensure fire safety and provide clarity to the regulated public. Language is added to clarify that the MWS must have sufficient strength and rigidity to maintain the six-inch minimum line clearance when considering line or vegetation movement due to reasonably foreseeable wind and weather conditions.
- 3) Correcting a typographical error that changes an incorrect word, "simulation," to the correct word, "insulation."

Modification to the Initial Statement of Reasons

- Additional of relevant documents relied upon

Additional documents were provided for the Board's consideration during the rulemaking process to supplement previous information submitted to the Board and referenced in the *Initial Statement of Reasons*. The documents assisted the Board in identifying potential utility vegetation management criteria used for evaluating trees that could apply to the Major Woody Stem exemption. The documents are on file in the official

rulemaking file located at California Department Forestry and Fire Protection, Room 1506-17, 1416 9th Street, Sacramento, CA. The additional documents include the following:

1. Handbook of Hazard Tree Evaluation. 1993.
2. Certified Utility Specialist Study Guide.1999. International Society of Arborist.

- California Environmental Quality Act (CEQA) compliance

The Board finds that the adopted regulatory amendments are consistent with and within the scope of CEQA. The regulation is consistent with Article 19, Categorical Exemptions and Guidelines for CEQA, Section 15300 and PRC 21084. The adopted regulation meets the requirements for a Categorical Exemption under Section 15301 Existing Facilities; Section 15304 Minor Alterations to Land; and Section 15308, Actions by Regulatory Agencies for Protection of the Environment.

- Deletion of a specific purpose of regulation

The ISOR contained several specific purposes for the regulation as required by the Administrative Procedures Act. The stated purpose “reconciles 14 CCR 1257 with the California Public Utilities Commission General Order 95, Rule 35” is deleted from this list in the ISOR. This deletion is made to provide clarity that the regulation being proposed is authorized and consistent with PRC 4293. Consistency with other laws or regulations is not a specific purpose.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Christopher Zimny
Regulations Coordinator
California Department of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460
(916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone number (916) 653-5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the original proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at the following address:

California Department of Forestry and Fire Protection
Resources Building
Room 1517
1416 9th St.
Sacramento, CA 94816
Attention: Christopher Zimny
Tel: (916) 653-9418

All of the above referenced information is also available on the Board website:

<http://www.fire.ca.gov>

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised.

Changes made to the text notice in the 45-Day notice of rulemaking on November 17, 2006, have been modified in this 15 Day Notice of Rulemaking Modification. The changes are clearly indicated as follows:

Existing CCR Text ----- No underline or strikethrough

Deletion of text made in the 45-Day Notice ---- ~~single strikethrough~~

Additions of text made in the 45-Day Notice ----- single underline

Deletions of text made in the 15-Day Notice ---- ~~double strikethrough~~

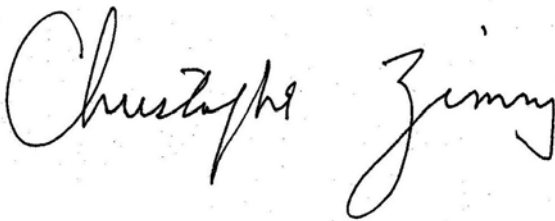
Additions of text made in the 15-Day Notice ----- double underscore

Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board.

A copy of the express terms of the modifications of the originally proposed action using DOUBLE UNDERLINE to indicate an addition to the California Code of Regulations and ~~DOUBLE STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.



Christopher Zimny
Regulations Coordinator
California Department of Forestry and Fire Protection